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SERVICE DATE - OCTOBER 25, 2001

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-563 (Sub-No. 1X)

KANSAS EASTERN RAILROAD, INC.—ABANDONMENT
EXEMPTION—IN BUTLER AND GREENWOOD COUNTIES, KS

Decided: October 24, 2001

Kansas Eastern Railroad, Inc. (KER), filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 44.5-mile line of railroad between milepost 438.5 at Severy, and milepost 483.0 near Augusta, in Butler and Greenwood Counties, KS. Notice of the exemption was served and published in the Federal Register on August 25, 1999 (64 FR 46471).¹ On December 10, 1999, a decision and notice of interim trail use or abandonment (NITU) was served that reopened the proceeding to implement interim trail use/rail banking under 49 CFR 1152.29 and the National Trails System Act, 16 U.S.C. 1247(d), and provided a 180-day period for KER to negotiate an agreement with Butler County for portions of the right-of-way between milepost 438.5 and milepost 476.4 and between milepost 476.65 and milepost 483.0.² Subsequently, by decision served on July 5, 2000, the notice of exemption was modified to the extent necessary to allow American Trails Association, Inc. (ATA), and KER to negotiate an agreement for trail use for the portions of the right-of-way that Butler County had proposed to rail bank. By letter filed on July 7, 2000, KER and ATA notified the Board that they had reached an agreement for interim trail use.

¹ By decision served on September 23, 1999, the proceeding was reopened at the request of the Board's Section of Environmental Analysis and the exemption was made subject to the conditions that KER: (1) consult with the National Geodetic Survey (NGS) and provide NGS with 90 days' notice prior to disturbing or destroying any geodetic station markers; (2) consult with the Kansas Department of Health and Environment in Topeka to determine if a permit is required under section 402; and (3) retain its interest in and take no steps to alter the historic integrity of the Beaumont St. Louis and San Francisco Railroad Water Tank until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

² By letter filed on May 2, 2000, KER notified the Board that it consummated the abandonment of the right-of-way between milepost 476.4 and milepost 476.65 and that it entered into an agreement with the State of Kansas for the sale of that line segment which was to be used by the State for the reconstruction of a highway.

On September 14, 2001, ATA filed a notice of intent to terminate trail use for the right-of-way between milepost 471.0 near Leon and milepost 476.4 and between milepost 476.65 and milepost 483.0 near Augusta, a distance of 11.75 miles in Butler County, KS. ATA requests that the NITU be vacated with respect to the described line segments as of September 30, 2001.

ATA has complied with the requirements of 49 CFR 1152.29(d)(2) regarding its request to vacate the NITU. Thus, KER may fully abandon the line between milepost 471.0 and milepost 476.4 and between milepost 476.65 and milepost 483.0, subject to the environmental, historic preservation, and geodetic station markers conditions that were imposed.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. The NITU served on July 5, 2000, is vacated with respect to the line segments between milepost 471.0 and milepost 476.4 and between milepost 476.65 and milepost 483.0 in Butler County, KS.³ KER may fully abandon these line segments, provided that it has complied with the measures prescribed in the September 23, 1999 decision to address environmental and historic preservation concerns and to consult with NGS.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary

³ The line segment between milepost 438.5 and milepost 471.0 remains subject to trail use/rail banking.